

**U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:17-cv-00597-APM**

JAMES MADISON PROJECT et al v. DEPARTMENT OF JUSTICE

Assigned to: Judge Amit P. Mehta

Cause: 05:552 Freedom of Information Act

Date Filed: 04/04/2017

Jury Demand: None

Nature of Suit: 895 Freedom of Information Act

Jurisdiction: U.S. Government Defendant

Plaintiff

JAMES MADISON PROJECT

represented by **Bradley Prescott Moss**
LAW OFFICES OF MARK S. ZAID,
P.C.
1250 Connecticut Avenue, NW
Suite 200
Washington, DC 20036
(202) 907-7945
Fax: (202) 330-5610
Email: brad@markzaid.com
ATTORNEY TO BE NOTICED

Plaintiff

BRAD HEATH

*Gannett Satellite Information Network,
LLC*

doing business as

USA TODAY

represented by **Bradley Prescott Moss**
(See above for address)
ATTORNEY TO BE NOTICED

V.

Defendant

DEPARTMENT OF JUSTICE

represented by **Amy E. Powell**
DEPARTMENT OF JUSTICE
Civil Division
310 New Bern Avenue
Suite 800
Raleigh, NC 27601-1461
(919) 856-4013
Email: amy.powell@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

| Date Filed | # | Docket Text |
|------------|----------|---|
| 04/04/2017 | <u>1</u> | COMPLAINT against DEPARTMENT OF JUSTICE (Filing fee \$ 400 receipt number 0090-4899620) filed by JAMES MADISON PROJECT, BRAD HEATH. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Exhibit Rule 7.1 certification, # <u>3</u> Summons DOJ, # <u>4</u> Summons USADC, # <u>5</u> Summons USAG)(Moss, Bradley) (Entered: 04/04/2017) |
| 04/04/2017 | | Case Assigned to Judge Colleen Kollar-Kotelly. (md) (Entered: 04/06/2017) |
| 04/06/2017 | <u>2</u> | LCvR 7.1 CERTIFICATE OF DISCLOSURE of Corporate Affiliations and Financial Interests by JAMES MADISON PROJECT (md) (Entered: 04/06/2017) |
| 04/06/2017 | <u>3</u> | SUMMONS (3) Issued Electronically as to DEPARTMENT OF JUSTICE, U.S. Attorney and U.S. Attorney General (Attachments: # <u>1</u> Notice of Consent) (md) (Entered: 04/06/2017) |

| | | |
|------------|-----------|--|
| 04/06/2017 | <u>4</u> | ORDER Establishing Procedures for Cases Assigned to Judge Colleen Kollar-Kotelly. Signed by Judge Colleen Kollar-Kotelly on April 6, 2017. (NS) (Entered: 04/06/2017) |
| 04/15/2017 | <u>5</u> | AMENDED COMPLAINT against DEPARTMENT OF JUSTICE filed by JAMES MADISON PROJECT, BRAD HEATH.(Moss, Bradley) (Entered: 04/15/2017) |
| 04/19/2017 | <u>6</u> | NOTICE of Appearance by Amy E. Powell on behalf of All Defendants (Powell, Amy) (Entered: 04/19/2017) |
| 04/24/2017 | <u>7</u> | RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. DEPARTMENT OF JUSTICE served on 4/10/2017 (Attachments: # <u>1</u> Exhibit DOJ receipt)(Moss, Bradley) (Entered: 04/24/2017) |
| 04/24/2017 | <u>8</u> | RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on United States Attorney General. Date of Service Upon United States Attorney General 4-10-2017. (Attachments: # <u>1</u> Exhibit USAG receipt)(Moss, Bradley) (Entered: 04/24/2017) |
| 04/24/2017 | <u>9</u> | RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 4/10/2017. Answer due for ALL FEDERAL DEFENDANTS by 5/10/2017. (Attachments: # <u>1</u> Exhibit USADC receipt)(Moss, Bradley) (Entered: 04/24/2017) |
| 05/10/2017 | <u>10</u> | ANSWER to <u>5</u> Amended Complaint by DEPARTMENT OF JUSTICE. Related document: <u>5</u> Amended Complaint filed by BRAD HEATH, JAMES MADISON PROJECT.(Powell, Amy) (Entered: 05/10/2017) |
| 05/10/2017 | <u>11</u> | ORDER. The parties shall MEET AND CONFER and file a Joint Status Report proposing a schedule for proceeding in this matter by no later than MAY 24, 2017. Signed by Judge Colleen Kollar-Kotelly on 5/10/2017. (lcckk3) (Entered: 05/10/2017) |
| 05/11/2017 | | Set/Reset Deadlines: Joint Status Report due by 5/24/2017. (kt) (Entered: 05/11/2017) |
| 05/23/2017 | <u>12</u> | Joint STATUS REPORT by DEPARTMENT OF JUSTICE. (Powell, Amy) (Entered: 05/23/2017) |
| 05/23/2017 | | MINUTE ORDER. The Court is in receipt of the parties' <u>12</u> Joint Status Report, wherein the parties propose a briefing schedule for this matter. The parties shall adhere to the following schedule: Defendant shall file its motion for summary judgment no later than JULY 14, 2017. Plaintiffs shall file their opposition to Defendant's motion, and their own cross-motion for summary judgment, no later than AUGUST 14, 2017. Defendant shall file its reply and its opposition to Plaintiffs' cross-motion no later than AUGUST 31, 2017. Plaintiffs shall file their reply no later than SEPTEMBER 14, 2017. Signed by Judge Colleen Kollar-Kotelly on 5/23/2017. (lcckk3) (Entered: 05/23/2017) |
| 07/14/2017 | <u>13</u> | MOTION for Summary Judgment by DEPARTMENT OF JUSTICE (Attachments: # <u>1</u> Declaration of G. Bradley Weinsheimer, # <u>2</u> Exhibits to Weinsheimer Declaration, # <u>3</u> Declaration of David Hardy, # <u>4</u> Exhibits to Hardy Declaration, # <u>5</u> Text of Proposed Order)(Powell, Amy) (Entered: 07/14/2017) |
| 07/14/2017 | <u>14</u> | ERRATA to Document 13-4 - Exhibits to the Hardy Declaration by DEPARTMENT OF JUSTICE <u>13</u> MOTION for Summary Judgment filed by DEPARTMENT OF JUSTICE. (Powell, Amy) (Entered: 07/14/2017) |
| 08/09/2017 | <u>15</u> | Consent MOTION for Extension of Time to File Response/Reply to Defendant's Motion for Summary Judgment by BRAD HEATH, JAMES MADISON PROJECT (Attachments: # <u>1</u> Text of Proposed Order)(Moss, Bradley) (Entered: 08/09/2017) |
| 08/09/2017 | <u>16</u> | ORDER GRANTING <u>15</u> Consent Motion for Extension of Time to File Response/Reply to Defendant's Motion for Summary Judgment. Signed by Judge Colleen Kollar-Kotelly on 8/9/2017. (lcckk3) (Entered: 08/09/2017) |
| 08/09/2017 | | Set/Reset Deadlines: Plaintiffs' Response to <u>13</u> due by 8/18/2017. Defendant's Reply due by 9/12/2017. Plaintiffs' Reply due by 9/28/17. (dot) (Entered: 08/09/2017) |
| 08/18/2017 | <u>17</u> | Memorandum in opposition to re <u>13</u> MOTION for Summary Judgment filed by BRAD HEATH, JAMES MADISON PROJECT. (Attachments: # <u>1</u> Statement of Facts (Response), # <u>2</u> Text of Proposed Order)(Moss, Bradley) (Entered: 08/18/2017) |

| | | |
|------------|-----------|---|
| 08/18/2017 | <u>18</u> | Cross MOTION for Summary Judgment by BRAD HEATH, JAMES MADISON PROJECT (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Statement of Facts, # <u>3</u> Text of Proposed Order)(Moss, Bradley) (Entered: 08/18/2017) |
| 09/07/2017 | <u>19</u> | NOTICE of Change of Address by Amy E. Powell (Powell, Amy) (Entered: 09/07/2017) |
| 09/08/2017 | <u>20</u> | Consent MOTION for Extension of Time to File Response/Reply by DEPARTMENT OF JUSTICE (Powell, Amy) (Entered: 09/08/2017) |
| 09/11/2017 | | MINUTE ORDER. The Court is in receipt of Defendant's <u>20</u> Unopposed Motion for Extension of Time to File Summary Judgment Opposition and Reply. Defendant requests an additional three days to file its pleading because defense counsel is busy with other matters. This is Defendant's first request to extend this particular deadline and Plaintiff does not oppose. Defendant acknowledges that its motion is untimely, but represents that any future motions for extensions will be filed on time. Defendant's motion is GRANTED. Defendant shall file its Summary Judgment Opposition and Reply by no later than SEPTEMBER 15, 2017. Plaintiff shall file its Reply by no later than SEPTEMBER 29, 2017. Signed by Judge Colleen Kollar-Kotelly on 9/11/2017. (lcckk3) (Entered: 09/11/2017) |
| 09/11/2017 | | Set/Reset Deadlines: Defendant's Response to <u>18</u> Cross Motions due by 9/15/2017. Defendant's Reply to <u>13</u> Motion for Summary Judgment due by 9/15/2017. Plaintiffs' Reply to <u>18</u> Cross Motions due by 9/29/2017. (dot) (Entered: 09/11/2017) |
| 09/15/2017 | <u>21</u> | REPLY to opposition to motion re <u>13</u> MOTION for Summary Judgment filed by DEPARTMENT OF JUSTICE. (Powell, Amy) (Entered: 09/15/2017) |
| 09/15/2017 | <u>22</u> | Memorandum in opposition to re <u>18</u> Cross MOTION for Summary Judgment filed by DEPARTMENT OF JUSTICE. (Attachments: # <u>1</u> Response to Pls Statement of Facts, # <u>2</u> Text of Proposed Order)(Powell, Amy) (Entered: 09/15/2017) |
| 09/18/2017 | | Case directly reassigned to Judge Timothy J. Kelly. Judge Colleen Kollar-Kotelly is no longer assigned to the case. (ztnr) (Entered: 09/18/2017) |
| 09/29/2017 | <u>23</u> | REPLY to opposition to motion re <u>18</u> Cross MOTION for Summary Judgment filed by BRAD HEATH, JAMES MADISON PROJECT. (Moss, Bradley) (Entered: 09/29/2017) |
| 11/02/2017 | <u>24</u> | Case randomly reassigned to Judge Amit P. Mehta. Judge Timothy J. Kelly is no longer assigned to the case. (ztnr) (Entered: 11/03/2017) |
| 11/03/2017 | <u>25</u> | NOTICE of Supplemental Information by BRAD HEATH, JAMES MADISON PROJECT (Moss, Bradley) (Entered: 11/03/2017) |
| 11/29/2017 | <u>26</u> | NOTICE of Supplemental Information by BRAD HEATH, JAMES MADISON PROJECT (Moss, Bradley) (Entered: 11/29/2017) |
| 12/18/2017 | <u>27</u> | NOTICE of Supplemental Information by BRAD HEATH, JAMES MADISON PROJECT (Attachments: # <u>1</u> Exhibit 1 (Gizmodo litigation declaration), # <u>2</u> Exhibit 2 (American Oversight litigation declaration))(Moss, Bradley) (Entered: 12/18/2017) |
| 01/05/2018 | | MINUTE ORDER. On January 4, 2018, the court issued a Memorandum Opinion, ECF No. 36, in James Madison Project v. Dep't of Justice, 17-cv-144 (APM), which directly addresses many of the issues raised in this case concerning the official acknowledgment doctrine. In light of the court's decision in James Madison, 17-cv-144, the court invites the parties, if they wish, to supplement their briefing in this case to take account of the court's decision in James Madison, 17-cv-144, and apply it to the facts of this case. The parties' supplemental briefs shall be due no later than January 17, 2018, and shall be limited to five pages. Signed by Judge Amit P. Mehta on 01/05/2018. (lcapm3) (Entered: 01/05/2018) |
| 01/17/2018 | <u>28</u> | RESPONSE TO ORDER OF THE COURT re Order,, filed by BRAD HEATH, JAMES MADISON PROJECT. (Moss, Bradley) (Entered: 01/17/2018) |
| 01/17/2018 | <u>29</u> | SUPPLEMENTAL MEMORANDUM to Respond to Order of the Court filed by DEPARTMENT OF JUSTICE. (Powell, Amy) (Entered: 01/17/2018) |

| | | |
|------------|-----------|--|
| 01/22/2018 | <u>30</u> | NOTICE of Supplemental Information by BRAD HEATH, JAMES MADISON PROJECT (Moss, Bradley) (Entered: 01/22/2018) |
| 02/02/2018 | <u>31</u> | NOTICE of Supplemental Information by BRAD HEATH, JAMES MADISON PROJECT (Attachments: # <u>1</u> Exhibit 1 – Nunes Memo)(Moss, Bradley) (Entered: 02/02/2018) |
| 02/02/2018 | | MINUTE ORDER. No later than February 14, 2018, Defendant shall notify the court whether the release of the "Nunes Memo" referenced in Plaintiffs' <u>31</u> Notice of Supplemental Information affects Defendant's blanket Glomar response to Plaintiffs' FOIA request. If Defendant maintains that the Nunes Memo's release does not in any way change the agency's Glomar response, it shall set forth its justification for that position. Signed by Judge Amit P. Mehta on 02/02/2018. (lcapm3) (Entered: 02/02/2018) |
| 02/14/2018 | <u>32</u> | RESPONSE TO ORDER OF THE COURT <i>Response to Court Order</i> by DEPARTMENT OF JUSTICE (Powell, Amy) Modified event title on 2/20/2018 (znmw). (Entered: 02/14/2018) |
| 02/14/2018 | | MINUTE ORDER. In light of Defendant's <u>32</u> Notice, Plaintiffs shall file, no later than Friday, February 16, 2018, their response to Defendant's proposal for further proceedings in this matter. Signed by Judge Amit P. Mehta on 02/14/2018. (lcapm3) (Entered: 02/14/2018) |
| 02/16/2018 | <u>33</u> | RESPONSE re <u>32</u> to Defendant's <i>Response to Order</i> filed by BRAD HEATH, JAMES MADISON PROJECT. (Moss, Bradley) Modified to add link on 2/20/2018 (znmw). (Entered: 02/16/2018) |
| 02/16/2018 | | MINUTE ORDER. In light of the parties' <u>32</u> <u>33</u> recent submissions, Defendant's <u>13</u> Motion for Summary Judgment and Plaintiffs' <u>18</u> Cross–Motion for Summary Judgment are denied without prejudice as moot. The parties shall appear for a status conference on March 19, 2018, at 10:00 am in Courtroom 10. Signed by Judge Amit P. Mehta on 02/16/2018. (lcapm3) (Entered: 02/16/2018) |
| 02/16/2018 | | Set/Reset Deadlines/Hearings: Status Conference set for 3/19/2018 at 10:00 AM in Courtroom 10 before Judge Amit P. Mehta. (zcdw) (Entered: 02/20/2018) |
| 03/16/2018 | <u>34</u> | Joint STATUS REPORT by DEPARTMENT OF JUSTICE. (Attachments: # <u>1</u> Declaration of David M. Hardy)(Powell, Amy) (Entered: 03/16/2018) |
| 03/19/2018 | | Minute Entry: Status Conference held on 3/19/2018 before Judge Amit P. Mehta: Discovery due by 7/20/2018. Status Report due by 5/18/2018. (Court Reporter Jan Dickman) (tb) (Entered: 03/19/2018) |
| 05/18/2018 | <u>35</u> | STATUS REPORT by DEPARTMENT OF JUSTICE. (Powell, Amy) (Entered: 05/18/2018) |
| 05/21/2018 | | MINUTE ORDER. The parties shall file a Joint Status Report on or before July 24, 2018, updating the court on the status of processing and production and, if necessary, proposing a summary judgment briefing schedule. Signed by Judge Amit P. Mehta on 05/21/2018. (lcapm3) (Entered: 05/21/2018) |
| 05/21/2018 | | Set/Reset Deadlines: Joint Status Report due by 7/24/2018. (zjd) (Entered: 05/24/2018) |
| 07/24/2018 | <u>36</u> | Joint STATUS REPORT by BRAD HEATH, JAMES MADISON PROJECT. (Moss, Bradley) (Entered: 07/24/2018) |
| 08/08/2018 | | MINUTE ORDER. The court has considered the parties' respective positions set forth in the July 24, 2018 <u>36</u> Joint Status Report, and does not agree with Plaintiff that separate briefing is required to determine the relevance of the President's tweets concerning the redactions made to the Carter Page FISA applications. The parties shall meet and confer about the exemptions claimed to support the redactions and, no later than August 17, 2018, file an additional status report with the court that sets forth how the parties wish to proceed and, if necessary, proposes a summary judgment briefing schedule. Signed by Judge Amit P. Mehta on 08/08/2018. (lcapm3) (Entered: 08/08/2018) |
| 08/08/2018 | | Set/Reset Deadlines: Joint Status Report due by 8/17/2018. (zjd) (Entered: 08/08/2018) |

| | | |
|------------|-----------|---|
| 08/15/2018 | <u>37</u> | Joint STATUS REPORT by DEPARTMENT OF JUSTICE. (Powell, Amy) (Entered: 08/15/2018) |
| 08/22/2018 | <u>38</u> | ORDER entering the briefing schedule proposed in the parties' <u>37</u> Joint Status Report. The schedule for further proceedings in this matter is as follows: (1) Defendant's Motion for Summary Judgment shall be filed on or before October 19, 2018; (2) Plaintiffs' Cross-Motion for Summary Judgment and Opposition to Defendant's Motion for Summary Judgment shall be filed on or before November 9, 2018; (3) Defendant's Reply and Opposition to Plaintiffs' Motion for Summary Judgment shall be filed on or before November 30, 2018; and (4) Plaintiffs' Reply shall be filed on or before December 21, 2018. Signed by Judge Amit P. Mehta on 08/22/2018. (lcapm3) (Entered: 08/22/2018) |
| 08/22/2018 | | Set/Reset Deadlines: Defendant's Motion for Summary Judgment due by 10/19/2018. Plaintiff's Cross-Motion for Summary Judgment and Opposition due by 11/9/2018. Defendant's Reply and Opposition due by 11/30/2018. Plaintiff's Reply due by 12/21/2018. (zjd) (Entered: 08/22/2018) |
| 10/19/2018 | <u>39</u> | NOTICE of Lodging Classified Material by DEPARTMENT OF JUSTICE (Powell, Amy) (Entered: 10/19/2018) |
| 10/19/2018 | <u>40</u> | MOTION for Summary Judgment by DEPARTMENT OF JUSTICE (Attachments: # <u>1</u> Declaration Of David Hardy (3rd) (Redacted), # <u>2</u> Combined Exhibits to 3rd Hardy Declaration, # <u>3</u> Declaration of Patrick Findlay and Exhibits)(Powell, Amy) (Entered: 10/19/2018) |
| 11/09/2018 | <u>41</u> | Cross MOTION for Partial Summary Judgment) by BRAD HEATH, JAMES MADISON PROJECT (Attachments: # <u>1</u> Exhibit 1 – Moss Declaration, # <u>2</u> Statement of Facts, # <u>3</u> Text of Proposed Order)(Moss, Bradley) (Entered: 11/09/2018) |
| 11/09/2018 | <u>42</u> | Memorandum in opposition to re <u>40</u> MOTION for Summary Judgment filed by BRAD HEATH, JAMES MADISON PROJECT. (Attachments: # <u>1</u> Exhibit 1 – Moss Declaration, # <u>2</u> Statement of Facts Response, # <u>3</u> Text of Proposed Order)(Moss, Bradley) (Entered: 11/09/2018) |
| 11/30/2018 | <u>43</u> | Memorandum in opposition to re <u>41</u> Cross MOTION for Partial Summary Judgment filed by DEPARTMENT OF JUSTICE. (Attachments: # <u>1</u> Response to Plaintiffs' Statement of Material Facts, # <u>2</u> Declaration of Michael G. Seidel)(Powell, Amy) (Entered: 11/30/2018) |
| 11/30/2018 | <u>44</u> | REPLY to opposition to motion re <u>40</u> MOTION for Summary Judgment filed by DEPARTMENT OF JUSTICE. (Attachments: # <u>1</u> Declaration of Michael G. Seidel)(Powell, Amy) (Entered: 11/30/2018) |
| 12/20/2018 | <u>45</u> | REPLY to opposition to motion re <u>41</u> Cross MOTION for Partial Summary Judgment filed by BRAD HEATH, JAMES MADISON PROJECT. (Moss, Bradley) (Entered: 12/20/2018) |